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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,749	11/17/2003	Douglas Thai	PAT-1241CIP4-CON2	3361
7590 09/14/2005			EXAMINER	
Law Offices of Raymond Sun 12420 Woodhall Way Tustin, CA 92782			MILLER, BENA B	
			ART UNIT	PAPER NUMBER
			3725	
DATE MAILED: 09/14/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/714,749

Applicant(s)

THAI, DOUGLAS

Examiner

Bena Miller

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-37 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 35 is/are allowed.
- 6) ☒ Claim(s) 34,36,37 and 127 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Kwak (US Patent D353,166).

Regarding claims 27 and 29, Kwak teaches in the figures a bubble producing assembly comprising a housing, a frame having one leg, two bubble producing devices each having one loop, the bubble producing devices positioned in a spaced-apart manner and the frame defining an opening shown in marked up figure 1. The Examiner takes the position that device of Kwak can be positioned adjacent a user mouth to blow air towards device to form bubbles. Further, the Examiner takes the position that the bubble rings are positioned over the opening of the frame.

Regarding claim 28, the Examiner takes the position that the bubble producing device of Kwak has a plurality of ridges thereon.

Claims 29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Gushea (US Patent 4,447,982).

Gushea teaches in the figures a bubble producing assembly comprising a housing (10, 12 and 14), a frame (40, 48), two bubble producing device (54,56) and a fan (18).

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Claims 29 is rejected under 35 U.S.C. 102(b) as being anticipated by Dietterich et al (US Patent 5,664,947).

Starr or Dietterich et al teaches in the figures a bubble producing assembly comprising a housing (20), a frame (20 or 68), one bubble producing device (60).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwak .

Kwak does not disclose expressly that the two to four bubble producing devices comprises exactly four and the one to four legs comprises exactly four legs. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have the two to four bubble producing devices comprise exactly four and the one to four legs comprise exactly four legs because Applicant does not disclosed that having the two to four bubble producing devices comprise exactly four and the one to four legs comprise exactly four legs provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected the Kwak device and the applicant's invention, to perform equally well because both would perform the same function of producing bubbles.

Therefore, it would have been prima facie obvious to modify Kwak to obtain the invention as specified in claims 31 and 32 because such modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Kwak.

Claim 33, 34, 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vargas (US Patent 3,834,066) in view of Dumont (US Patent 3,636,652).

Vargas teaches in figures most of the features of the disclosed invention, including a first activator (7) and a second activator (10). However, Vargas fails to teach the bubble producing device is spaced apart from the outlet of the housing. Dumont teaches in the figures a toy gun with bubble forming sight having a bubble producing device spaced apart from the outlet of the of the housing. It would have been obvious to one having ordinary skill in the art at the time the invention was made space apart the bubble producing device as taught by Dumont from the outlet of Vargas for the purpose of increasing the utility and realism of the toy.

Allowable Subject Matter

Claim 35 is allowed.

Response to Arguments

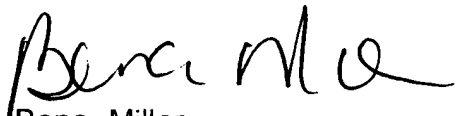
Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on ****. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Bena Miller
Primary Examiner
Art Unit 3725

bbm
September 09, 2005